

# Exhibit 1

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 MARIO H. CAPOGROSSO

4 Plaintiff,

5 Case No:

6 - against -

1:18-CV-02710

(EKLb)

7 ALAN GELBSTEIN, et al.,

8 Defendants.

9  
10  
11 December 18, 2020

9:45 a.m.

12  
13  
14  
15  
16  
17 VIRTUAL VIDEOTAPED EXAMINATION BEFORE TRIAL OF

18  
19 MARIO H. CAPOGROSSO, the Plaintiff, pursuant to

20  
21 Notice, taken at the above date and time, before

22  
23 MARIA ACOCELLA, a Notary Public within and for the

24  
25 State of New York.

A P P E A R A N C E S :

MARIO H. CAPOGROSSO, ESQ., Pro Se  
21 Sheldrake Place  
New Rochelle, New York 10804

STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL  
LETITIA JAMES

Attorneys for Defendants  
28 Liberty Street  
New York, New York 10005

BY: JAMES THOMPSON, ESQ.,  
Assistant Attorney General  
Litigation Bureau

ALSO PRESENT: Howard Brodsky, Videographer

1 Mario H. Capogrosso

2 Terry Kalker, who is a lawyer down there who  
3 was looking for a lawyer. I sent him [sic]  
4 my resume. She [sic] responded. I said, you  
5 know, I don't know what type of work she did.

6 But I went down, started working  
7 for her as one of her attorneys.

8 Q. And how do you spell Ms. Kalker's  
9 name?

10 A. K-A -- I think K-A-L-K-E-R.

11 Q. And so can you tell me a little  
12 bit about working for Ms. Kalker?

13 A. Well, when I worked for her, it  
14 seemed fine when I first started. When I  
15 first started, it seemed fine.

16 But she made certain  
17 representations to me that she didn't  
18 fulfill. Now I was getting -- now medical  
19 insurance is very important to me, and making  
20 a representation of following through with it  
21 is very important to me.

22 She made a representation that I  
23 would have medical insurance after three  
24 months. I worked for her for three months,  
25 and I said, where is my medical insurance?

1 Mario H. Capogrosso

2 Because I had it in my previous job.

3 Working for an engineer, if they  
4 say something, they do it.

5 Terry Kalker didn't do that. She  
6 said, well, you will get medical insurance a  
7 year and three months from now, which upset  
8 me greatly, very greatly.

9 So at that point I said, all  
10 right, you don't want to pay me medical  
11 insurance, you are not upholding what you  
12 said you were going to do.

13 I left her and went into practice  
14 for myself. And that is what I started doing  
15 in June, June of 2005. I started work for  
16 Terry Kalker in April 2005, April or March of  
17 2005. I only spent three or four months with  
18 her.

19 Q. And how did she respond when you  
20 objected?

21 A. She continued with that  
22 affirmation, you will get your insurance from  
23 a year. I said, that is unacceptable. I  
24 said, you can't make a representation and  
25 don't follow through with it.

1 Mario H. Capogrosso

2 So at that point I really -- I  
3 started not to trust this woman anymore. I  
4 said, that is enough. She was sent in -- I  
5 normally, with my engineering firm, if they  
6 sent me someplace, they always paid my  
7 expenses.

8 She said she was going to pay  
9 expenses, and then she decided not to pay  
10 expenses. And she sending me to all  
11 different courts, all over Long Island and  
12 Upstate New York. I said, I can't afford  
13 this. I can't afford it. Gas, tolls.

14 So at that point I said, you  
15 know, you are not going to truthful with me,  
16 I don't feel comfortable working with you. I  
17 decided to end it.

18 My clients who I was representing  
19 liked me, liked my representation, so I said,  
20 I will do this on my own, which is what I  
21 did.

22 Q. So what was your salary with  
23 Ms. Kalker?

24 A. That beginning salary, what I  
25 recall was \$40,000 a year, back in 2005.

1 Mario H. Capogrosso

2 If you see ticket brokers -- if I  
3 see ticket brokers in your office, and you  
4 tell me you don't know what they are doing  
5 for a living, I see you pleading guys in the  
6 GE and rescheduling cases, and if another  
7 attorney tells me he is covering a case for  
8 you, my opinion -- and only my opinion, which  
9 I am entitled to -- you got a caseload. You  
10 got a caseload, and you are trying to get a  
11 piece of the action. That is my opinion.

12 Q. When you say you have got a  
13 caseload, you think he is practicing law as  
14 an attorney at the TVB?

15 A. As well as being a judge. Yeah,  
16 that is my opinion. That is my opinion. I  
17 don't know if it is true or not. That is not  
18 my job. That is my opinion. I don't know if  
19 it is true. I don't know if that is true. I  
20 reported what I saw and what I heard.

21 Q. But you never saw Judge Gelbstein  
22 arguing a case at the TVB or representing a  
23 client at THE TVB; is that correct?

24 A. No, I never saw him do that. No.

25 Q. Let's take a step back,

1 Mario H. Capogrosso

2 Mr. Capogrosso.

3 Why did you decide to sue in this  
4 case?

5 A. I want to go back to practicing  
6 law at New York TVB. I want to clear my  
7 name. I want to clear my name.

8 I was removed from the Brooklyn  
9 TVB on May 11, 2015. Nobody looked at this  
10 videotape, which we established that  
11 yesterday. Nobody looked at it.

12 Did an Danielle Calvo, somebody  
13 told her that there was an incident between  
14 me and Smart. Danielle Calvo makes a call to  
15 Judge Gelbstein. Gelbstein calls Traschen,  
16 and Traschen tells Calvo to have me removed.

17 Nobody looks at the videotape.  
18 The videotape was never kept. It is lost.  
19 There is affidavit and affidavit and  
20 accusations made against me and my name and  
21 my reputation as a lawyer that I was never  
22 served with so I could respond.

23 I asked yesterday, how come you  
24 didn't file an affidavit? I never received a  
25 complaint. I can't respond to a complaint if



1 Mario H. Capogrosso

2 I never received it.

3 I wrote to -- and nobody is --  
4 and I wrote to Traschen. I wrote to Bushra  
5 Vahdat. And I wrote to Judge Gelbstein, and  
6 I wrote to your office.

7 And when I write to your office  
8 concerning my concern -- detailing my  
9 concerns what is going on, I get no response  
10 from any of these offices.

11 And then I have some security  
12 guard approach me on the morning of May 11th,  
13 instigates an altercation, and I am removed  
14 within five minutes.

15 I want to clear my name. I think  
16 I was set up. I think Judge Gelbstein and  
17 all these other parties wanted me out because  
18 I wasn't playing the game.

19 And I want to clear my name. I  
20 want to get back to work. I want the money  
21 that I lost. And I think whoever did this,  
22 especially if they are judges, should get  
23 punished. They should not be a judges, and  
24 they should not be represented --

25 Q. When you say they wanted you out

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK  
4 CASE NO. CV-18-2710

5 -----x  
6 MARIO H. CAPOGROSSO,

7 Plaintiff,

8 -against-

9 ALAN GELBSTEIN, et al.,

10 Defendants.  
11 -----x

12 December 18, 2020

13 11:48 a.m.  
14

15 VIDEO EXAMINATION BEFORE TRIAL of  
16 MARIO H. CAPOGROSSO, the Plaintiff  
17 herein, taken by the Defendants, pursuant  
18 to Notice, before Lisa H. MacDonald, RPR,  
19 and Notary Public of the State of New  
20 York.  
21

22 VOLUME II  
23  
24  
25

A P P E A R A N C E S :

MARIO H. CAPOGROSSO, ESQ.  
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Attorneys for Defendants

BY: JAMES THOMPSON, ASSISTANT  
ATTORNEY GENERAL

ALSO PRESENT:

Howard Brodsky, Videographer

1 M.H. Capogrosso

2 and that's what I'll hold to.

3 Q So your testimony is that  
4 Mr. Brody just said fuck you, you Jew  
5 hater anti-Semite out of nowhere?

6 A Yeah. I walked in in the  
7 morning as I always did. I get coffee at  
8 the deli. I get a paper at the deli. I  
9 like the Post. I take my coffee, before  
10 I go in the courtroom I put it under the  
11 bench. I do it the same way all the  
12 time.

13 I was reaching for my  
14 coffee, for whatever reason he decided to  
15 come at me this morning. Do I think he  
16 was put up to it? I think so. I think  
17 Bushra Vahdat who had just come on maybe  
18 wanted me out, I don't know and this was  
19 her opportunity to get me out. So she  
20 created this incident, that's my opinion.

21 I was blindsided. I can  
22 have an opinion though. But this is the  
23 first time I think I was blindsided.  
24 That's my opinion. Vahdat, Gelbstein  
25 wanted me out and maybe they put this

1 M.H. Capogrosso

2 attorney up to it because out of the blue  
3 he just happens to say this.

4 My mind was --

5 Q Why would --

6 A You got to let me finish.  
7 My mind was someplace else. It was right  
8 around Christmas time. I'm not really  
9 thinking. I'm thinking about I got to  
10 buy Christmas presents and what I'm  
11 buying for who. That's where my mind was  
12 on that morning. But that's what  
13 happened.

14 Q Why would Bushra Vahdat and  
15 Alan Gelbstein want you out?

16 A Bushra Vahdat -- well, they  
17 had complaints against me from the  
18 clerical staff, right and they had to  
19 have a reason to have me removed and this  
20 would have been an excellent reason,  
21 right. They had all these complaints  
22 that they were filing against me. There  
23 was no sum and substance to any of them,  
24 right.

25 But in order to get me

1

M.H. Capogrosso

2

removed they needed an incident like

3

this, so they created one. They

4

didn't -- they didn't have no -- they had

5

no basis to grieve me. There was no

6

grievance filed against me. They grieved

7

in Emig Tieg (phonetic) in Manhattan

8

North because they had a basis for that,

9

but they had no basis to grieve me

10

because there was no sum or substance to

11

any of these complaints, otherwise they

12

would have, so they created an incident.

13

That's my opinion.

14

And I was blindsided. My

15

mind was someplace else, it was Christmas

16

time and I took the bait. I did the

17

right thing. I did throw a punch at a

18

wall. I didn't hit the wall because I

19

was upset. What makes me a Jew hater

20

anti-Semite? What nerve does this

21

attorney have to call me a Jew hater

22

anti-Semite? I'm working down there 10

23

years. There's not one complaint from a

24

motorist or a client that I used an

25

anti-Semitic remark or a racist remark.

1 M.H. Capogrosso

2 What right does this man  
3 have to call me an anti-Semite Jew hater?

4 Q So why would he think that  
5 you're a Jew hater anti-Semite? Why  
6 would he say that out of nowhere?

7 A Let me know. I'd like --  
8 why don't you ask him? Why don't you ask  
9 him? Ask this Mr. Yaakov Brody.

10 Q Had you ever --

11 A I'm making too much money in  
12 his presence? I don't know. I'm an  
13 Italian America down there. I'm  
14 surrounded by Jewish lawyers. Most of  
15 the lawyers down there are Jewish. Most  
16 of the judges are Jewish.

17 Maybe I'm making too much  
18 money. I don't know. Maybe I saw what  
19 Judge Gelbstein was doing with the ticket  
20 brokers. I don't know. But this guy had  
21 it in for me --

22 Q Had --

23 A -- and I took the bait.

24 Q Had you ever discussed Jews  
25 or Judaism with Mr. Brody before this?

1 M.H. Capogrosso

2 A Absolutely not. Listen, I  
3 was there 10 years, 10 years I was there.  
4 Look at the complaints against me. Not  
5 one client or motorist made a statement  
6 that I made an anti-Semitic or a racist  
7 remark, not one.

8 Now I have to have this  
9 lawyer call me a Jew hater anti-Semite.  
10 For what reason?

11 Q So had you had conversations  
12 with Jews -- about Jews or Judaism at all  
13 with anyone previous to this?

14 A No. I don't -- no, no. I  
15 don't care who you are, what religion you  
16 are. I'm Catholic. I don't care what  
17 you want to be. You're Jewish, fine. Do  
18 whatever you like. God bless. I could  
19 care less.

20 You look at the motorists  
21 and the clients that I represented,  
22 they're all nationalities, all races, all  
23 of them. Not one indicated I made an  
24 anti-Semitic or a racist remark and I'm  
25 dealing with thousands, almost 850



1 M.H. Capogrosso  
2 clients I had on the docket. I'm dealing  
3 with hundreds of clients on a monthly  
4 basis. Not one made a statement that I  
5 made any type of statement, any type of  
6 racist or anti-Semitic statement, not  
7 one.

8 I took this very personally  
9 and I had to go to an anger management  
10 course because I did take it personally.

11 Q So Mr. Brody writes that  
12 "Mr. Capogrosso lashed out at me and said  
13 he was being nice by saying excuse me and  
14 next time he would simply hit me with his  
15 briefcase" and you said you never said  
16 that; correct?

17 A I would never hit you with  
18 my briefcase. If I'm going to hit you,  
19 I'm going to hit you. If I'm going to --  
20 if I have to -- if it comes to the point  
21 where I've got to hit you, I'm going to  
22 hit you. All right.

23 If I have to defend myself  
24 against a physical attack, a knife, a  
25 gun, I'm going to hit you or I'm going to

1 M.H. Capogrosso

2 get hit, but I'm not going to hit you  
3 with my briefcase. That's not something  
4 I would do.

5 This guy, Yaakov Brody, I  
6 don't know what type of man he is, but  
7 I'm not going to hit you with my  
8 briefcase. That's an absolute lie. I am  
9 not the type of guy who's going to hit  
10 you with a briefcase.

11 Q So he writes that you  
12 proceeded to tell him that the next time  
13 you see him you better get out of his  
14 way.

15 A That's not true.

16 Q Did you say that?

17 A No, absolutely not. Get out  
18 of my way for what reason? We are both  
19 working in the same building. How is he  
20 going to get out of my way? We are both  
21 attorneys at the same location. How is  
22 he going to get out of my way?

23 Q He writes that there were  
24 three other attorneys in the room. Do  
25 you remember there being anyone else in

1 M.H. Capogrosso

2 recognize this document?

3 A It's a Work Violence Report.

4 Q And what is it?

5 A It's a Work Violence Report  
6 by one of your -- by one of your  
7 representatives at the DMV, by -- Calvo's  
8 name is on it. That's the name I  
9 recognize.

10 Q Do you recognize Geri  
11 Piparo?

12 A No.

13 MR. THOMPSON: All right.  
14 Ms. MacDonald, can I ask you to mark  
15 this as Exhibit 20?

16 (The above-referred-to  
17 report was marked as Exhibit 20 for  
18 identification as of this date.)

19 Q So, Mr. Capogrosso, do you  
20 know who Geri Piparo is?

21 A No. I never heard --

22 Q I'll represent to you --

23 A -- of that name.

24 Q I'll represent to you that  
25 she's one of the clerks and that she

1 M.H. Capogrosso

2 signed the petition regarding you in  
3 2011.

4 A All right. Fine.

5 Q On page 2 she writes "Mario  
6 Capogrosso accused David Smart of looking  
7 at him and there were heated words  
8 exchanged. PO Nielsen intervened."

9 Can you tell me what  
10 happened?

11 A Well, there was a hell of a  
12 lot more than looking at me. When I came  
13 back from the -- my anger management  
14 course, which I came back in June, I had  
15 to leave in December of 2011, I was told  
16 by one of the clerks, Cindy, the lady I  
17 was talking to who liked me I guess a  
18 little bit, that a motorist came down  
19 looking for me, came down looking for me  
20 to give me a fee because he owed me money  
21 on a case and that she was told by the  
22 motorist that David took the fee. It was  
23 \$80 and a \$150 fee, right. So I report  
24 that to Judge Gelbstein because he stole  
25 it. You steal money, you should get

1 M.H. Capogrosso

2 reported.

3 After that there was a  
4 series of harassments by David Smart  
5 against my person. I've gone into them  
6 with you. I've gone into them. He's  
7 pushed me from behind. He gave me the  
8 sign of the cross and the spear hand one  
9 day. He would get in my face, a couple  
10 of inches, but the same David Smart that  
11 approached me on May 11 after he stole  
12 the money and I reported him. Get in my  
13 face. What's the problem? Fuck you,  
14 you're the problem. Again, fuck you,  
15 you're the problem, two, three, four  
16 times.

17 So I tell -- I must have  
18 told this woman, you know, this guy  
19 doesn't want to leave me alone. Doesn't  
20 want to leave me alone. Why do I have  
21 to --

22 Q And is this --

23 A -- be harassed because I  
24 report a theft which should have been  
25 reported, which is the right thing to do,

1 M.H. Capogrosso

2 so that's what was going on.

3 Q Is this incident, May 5th of  
4 2014, is this the first incident or  
5 confrontation you had with Mr. Smart?

6 A No, no. Like I said, I  
7 walked away a million times. I have no  
8 reason to have a beef with a security  
9 guard. I'm a lawyer. I got two licenses  
10 I have to protect. I spent a lot of  
11 money, a lot of time getting this  
12 license. I don't need a beef with a  
13 security guard. I don't need it. I  
14 walked away.

15 Q What was --

16 A Let me finish. It's not the  
17 first time, no, not the first time.

18 Q When was the first time?

19 A June of 2012. As soon as I  
20 got back in, he comes up from behind me  
21 and pushes me from behind. He's like --  
22 pushes me.

23 I tell Gelbstein about it.

24 He looks at the security tape I think and  
25 he says you don't need this down here. I

1 M.H. Capogrosso  
2 said the man just assaulted me from  
3 behind. Are you going to do anything  
4 about it? And that was the end of it.  
5 He pushes me from behind, June of 2012  
6 when I -- first week I was back in there.

7 I reported it to Gelbstein.  
8 He looked at the videotape. He did  
9 nothing about it. Did I go to the cops,  
10 no, I don't go to the cops. I'm not  
11 going to complain about a cop and get a  
12 guy arrested. I'm not doing it. That's  
13 not who I am.

14 But should he have been  
15 removed from the DMV at that point in  
16 time, absolutely and he wasn't.

17 Q Mr. Capogrosso, I'm bringing  
18 up another document.

19 And can you see the  
20 document? Can you see it okay,  
21 Mr. Capogrosso?

22 A Yeah. I can't see the whole  
23 thing. You have to go down.

24 Q Yeah, sure. Actually, let  
25 me zoom out a little bit. Is that

1 M.H. Capogrosso

2 a -- excuse my language. That's a  
3 ridiculous accusation against me,  
4 ridiculous, but these are the type of  
5 clerks I have to deal with.

6 Q So the question was do you  
7 believe that she's lying here?

8 A I did not tell a motorist to  
9 give a clerk an attitude. I did not.  
10 Now --

11 Q I understand that, but yes  
12 or no?

13 A Maybe she -- I don't know  
14 what she's thinking, but I did not tell a  
15 clerk -- a motorist to give a clerk an  
16 attitude. First of all, I don't even  
17 know how to do that or how a motorist  
18 would know how to do that. How would a  
19 motorist know how to give a clerk an  
20 attitude?

21 Q So why would she write this?

22 A I don't know. I don't know.  
23 They didn't want me there. I don't know.  
24 Maybe you got a bunch of crazy clerks  
25 down there.



1 M.H. Capogrosso

2 Q Did Ms. Alford not want you  
3 there?

4 A Who's Ms. Alford? Wanda?

5 Q Wanda Alford who --

6 A I don't know.

7 Q -- wrote the letter.

8 A I don't know. This is the  
9 first -- the first time I saw this  
10 complaint that I have an opportunity to  
11 respond to is when you sent it to me and  
12 I don't even know how to respond to it.  
13 I wouldn't know how to deal with this.  
14 I'm accused of telling a motorist to give  
15 a clerk an attitude.

16 MR. THOMPSON: And,  
17 Ms. MacDonald, if we didn't do that  
18 already, let's mark that as Exhibit  
19 21.

20 A Is that threatening conduct  
21 or verbal abuse?

22 Q Mr. Capogrosso, can you see  
23 the document that I just put up?

24 A Yeah. This is something  
25 David Smart wrote.

1 M.H. Capogrosso

2 Q Do you recognize this?

3 A Yeah. I saw it when you  
4 gave it to me, yes. He signed something.  
5 It's an unsigned note of David Smart.

6 Q And this is -- this document  
7 is marked Gelb-0000059; correct?

8 A Yeah.

9 Q What is this document?

10 A Some type of complaint by --  
11 on February 3, I don't know what year,  
12 9:15 a.m. Smarts telling me that I  
13 deliberately walked into him. I am --  
14 there's a board --

15 Q Mr. Capogrosso, I'm sorry,  
16 we lost your audio for a second there.  
17 Can you restate that?

18 A Yeah. This is -- I'm being  
19 accused -- I'm being accused of walking  
20 into a security guard. Now, at the DMV  
21 there's a board that was hanging up when  
22 I was there and every day there was a  
23 calendar on the board as in most  
24 courthouses that tell you where each case  
25 is going to be heard.

1 M.H. Capogrosso

2 I go in the morning, right.  
3 David would put up or somebody would put  
4 up the calendar. Most times it was David  
5 Smart and in the afternoon he would take  
6 it down. So I have to go to the calendar  
7 to look at the calendar because in the  
8 morning there's a lot of people and  
9 everybody's rushing around here and  
10 there. You have to know what courtroom  
11 to go in.

12 So I'm walking to the  
13 calendar and he tells -- and I'm trying  
14 to go to the calendar and he tells me I  
15 deliberately walked into him. I mean  
16 that's just stupid. We are both working  
17 in the same location. We both have to go  
18 to the calendar. He has to hang it up  
19 and I have to look at it.

20 I'm deliberately walking  
21 into a security? I have to work in this  
22 courthouse. I'm sorry. As a lawyer I  
23 have to go to the board and look at the  
24 docket to see where my case is being  
25 held. This is what I'm being accused of,

1 M.H. Capogrosso

2 deliberately walking into a guard.

3 We work in the same  
4 building. We both have to go to the --  
5 to the board in the morning, to the  
6 docket. He has to hang it up. I got to  
7 look at it to see where my case is.  
8 That's all I have to say about this.

9 Q So is Mr. Smart lying?

10 A That I deliberately walked  
11 into him, yes, absolutely. I don't  
12 need --

13 Q Why is he --

14 A -- this beef with a security  
15 guard. I don't need a beef with a  
16 security guard at a courthouse that I'm  
17 trying to make a living at.

18 Q And why do you think he's  
19 lying?

20 A I don't know. Why would I  
21 deliberately walk into a security -- I'm  
22 going to the board to check the calendar.

23 Q Did he have any animis  
24 towards you?

25 A I told you, I reported to

1 M.H. Capogrosso

2 Gelbstein that he stole \$80 and a \$150  
3 fee and I found that out when I got back  
4 after taking my anger management course.  
5 I told you that. Cindy told --

6 Q And --

7 A And then I wrote to the  
8 motorist. The motorist confirmed it. I  
9 didn't go to the police because that's  
10 not what I do. I'm not going to get the  
11 guy arrested. Like maybe I should have  
12 looking back on this thing now.

13 Q And would you have --

14 A Gelbstein investigated it.  
15 Gelbstein admits to me that Smart said he  
16 took the money and he gave it to me,  
17 which is an absolute lie. First of all,  
18 I authorized nobody to take money on my  
19 behalf, collect money on my behalf. He  
20 had no authority to collect a fee on my  
21 behalf, this security guard, Smart and  
22 Gelbstein believes it, that he gave me  
23 the money. Gelbstein believes this.

24 I told him the security  
25 guard had no authority to take the money,

1 M.H. Capogrosso

2 correct?

3 A That was my assumption, yes.

4 Q You say it was your  
5 assumption. What do you mean by that?

6 A I'm a lawyer. I'm licensed  
7 in the State of New York. I should be  
8 treated like every other lawyer. I see  
9 no reason why I shouldn't be. I should  
10 be held to the same standard as every  
11 other lawyer practicing, no different. I  
12 took my course that I needed to take. I  
13 should be held on the same standard as  
14 every other lawyer.

15 Q But, in fact, you weren't  
16 quite on the same standing because you  
17 had been warned that any further incident  
18 would lead to your expulsion; isn't that  
19 true?

20 A Well, that was an improper  
21 warning in my opinion. I should be  
22 treated like any other lawyer, any other  
23 lawyer.

24 Q So why was it improper for  
25 DMV to warn you that further incidents

1 M.H. Capogrosso

2 would lead to an expulsion?

3 A Well, I don't know why they  
4 threw that letter to me. Like I said,  
5 they threw it at me two days before I was  
6 to go back to the DMV. I agreed to  
7 nothing but to take an anger management  
8 course, that's it.

9 Q Well, once again --

10 A I took the course. I should  
11 be treated like every other lawyer, not  
12 on a special, you know, special -- I  
13 should be treated like every other  
14 lawyer. That's all I agreed to was take  
15 a course.

16 I wouldn't have agreed to  
17 anything else if I knew this letter was  
18 going to be thrown at me.

19 Q Mr. Capogrosso, you write  
20 that "On numerous occasions your security  
21 guard Dave Sparks told me to go F  
22 myself."

23 A I didn't know his name at  
24 that point. It's Smart, not Sparks. I  
25 didn't know his last name.

1 M.H. Capogrosso

2 Q How did you not know his  
3 last name at this point?

4 A I didn't know it.

5 Q You had been interacting  
6 with him for years you said.

7 A We all knew him by David. I  
8 never talked to him about his last name.  
9 I know people said S Smart something or  
10 Smarks or something. I thought it was  
11 Sparks.

12 I knew him -- I knew him as  
13 the security guard, that's it. I know  
14 his first name was David.

15 Q When you --

16 A That's what I knew.

17 Q When you write,  
18 Mr. Capogrosso, when you write "Will  
19 provide proof upon request," what proof  
20 would you have provided?

21 A I sent you all my letters,  
22 all my -- all the complaints I filed with  
23 Gelbstein.

24 Q So the proof would have been  
25 your own letters to Judge Gelbstein?



1 M.H. Capogrosso

2 A Yes and my testimony. The  
3 fact that there was a video --

4 Q Okay.

5 A That I stated to Gelbstein  
6 the man pushed me from behind in June of  
7 2012. They stole money from me.

8 Q And the same question for  
9 item number 2 when you talk about  
10 instances where Sparks redirected other  
11 clients who had come looking for you to  
12 other attorneys or interfered with his  
13 conversations, the proof there would have  
14 been your statements as well?

15 A Yeah. I had an affidavit I  
16 filed with -- I think I sent it to you  
17 also, yes and I saw him doing it.

18 Q So here on page 2 you see  
19 and I'm going to highlight your  
20 statement.

21 A Yeah. Go ahead.

22 Q "I've made numerous  
23 complaints to Judge Gelbstein. His  
24 response has been a spade is a spade.  
25 His words not mine. He laughs and

1 M.H. Capogrosso

2 giggles."

3 A That's true. That's  
4 absolutely a true statement, absolutely  
5 true.

6 Q Well, he denied it  
7 yesterday; didn't he?

8 A It's an absolutely true  
9 statement. He took no action in response  
10 to these. He knew what I had to go  
11 through back in 2011 with Yaakov Brody  
12 and that incident.

13 Q Mr. Capogrosso, that's not  
14 the question.

15 A He took no action --

16 Q The question --

17 A -- to respond to this.

18 Q Sir, the question is he  
19 denies it; correct?

20 A I don't know if he denied  
21 it. That an absolutely true statement.  
22 That's what he said to me.

23 Q Were you not at the  
24 deposition yesterday when he denied it?

25 A I'm sure he denied it at the